

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

MICHAEL TODD,	)	
	)	
Plaintiff,	)	
	)	Case No.
v.	)	
	)	
FIFTH THIRD BANK,	)	
	)	
Defendant.	)	

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441(a) and 1446(a), Defendant Fifth Third Bank (“Fifth Third”) hereby gives notice of the removal of this action from the Circuit Court of Cook County, Illinois, to the United States District Court for the Northern District of Illinois.

This Court has jurisdiction over this case because original jurisdiction is proper under 28 U.S.C. § 1331. In support of this Notice of Removal, Fifth Third states as follows:

**PLAINTIFF’S ALLEGATIONS**

1. Plaintiff, Michael Todd,<sup>1</sup> filed his twenty-six-count Complaint in the Circuit Court of Cook County, Illinois, bearing the above title and case number 2015 M5 005565. (*See*, Exhibit 1, Complaint).

2. Plaintiff alleges that during August 2015, Fifth Third knowingly and willfully used an automatic telephone dialing system to make at least 26 calls to his cellular phone. (Ex. 1, Compl., ¶¶ 16–42, 44.)

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<sup>1</sup> Plaintiff is on this court’s list of restricted filers, and was the subject of an Executive Committee Order in 2014 because he had filed at least 28 cases in the Northern District of Illinois within four years. *See In re Michael Todd Executive Committee Order*, 14 C 1874 (N.D. Ill. Mar. 19, 2014) (attached as Exhibit 2).

3. He further alleges that the calls were from a phone number registered to Fifth Third. (Ex. 1, Compl., ¶¶ 15, 42.)

4. Plaintiff alleges that in July 2015, he had spoken to a representative from Fifth Third and orally withdrew his consent for Fifth Third to contact him through an automatic telephone dialing system. (Ex. 1, Compl. ¶¶ 7–9.)

5. He alleges that each of the August 2015 calls violated the Telephone Consumer Protection Act of 1991 (“TCPA”), 47 U.S.C. § 227, and seeks for each count statutory damages of \$500, plus treble damages. (Ex. 1, Compl., Counts 1–26.)

**THE COURT HAS JURISDICTION UNDER 28 U.S.C. § 1331**

6. A defendant may remove an action to this court if this court has original jurisdiction over it. *See* 28 U.S.C. § 1441(a).

7. This court has original jurisdiction because this action arises under the laws of the United States. *See* 28 U.S.C. § 1331. Plaintiff’s Complaint alleges only violations of the TCPA.

8. The TCPA creates a private right of action. 47 U.S.C. § 227(b)(3); *see Brill v. Countrywide Home Loans, Inc.*, 427 F.3d 446, 449–50 (7th Cir. 2005).

9. Federal district courts have subject-matter jurisdiction over private causes of action brought under the TCPA; state court jurisdiction over TCPA lawsuits is not exclusive. *Mims v. Arrow Fin. Servs., LLC*, 132 S.Ct. 740, 748–49, 753 (2012); *Scott v. Westlake Servs., LLC*, 948 F. Supp. 2d 898, 903 n.5 (N.D. Ill. 2013) (reversed on other grounds).

10. A complaint alleging violations of the TCPA may properly be removed to federal district court. *See Mims*, 132 S.Ct. at 752–53, 753 n.15.

**THE STATUTORY REQUIREMENTS OF 28 U.S.C. § 1446 HAVE BEEN SATISFIED**

11. Fifth Third received the Complaint on October 13, 2015. So this Notice of Removal is timely. 28 U.S.C. § 1446(b).

12. Fifth Third is filing with this pleading a copy of the state-court Complaint. 28 U.S.C. § 1446(a). (*See* Ex. 1, Compl.).

13. Promptly after filing this Notice of Removal, Fifth Third will give written notice of this Notice of Removal to Plaintiff. 28 U.S.C. § 1446(d).

14. Promptly after the filing of this Notice of Removal, Fifth Third will file a copy of this Notice of Removal with the Clerk of the Circuit Court of Cook County. 28 U.S.C. § 1446(d).

By: /s/ Timothy L. Binetti

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***Attorneys for Fifth Third Bank***

**CERTIFICATE OF SERVICE**

I certify that, pursuant to Fed. R. Civ. P. 5(a), a copy of the **Notice of Removal** was served by deposit into the United States Mail, first-class, postage pre-paid upon the following on October 14, 2015:

Michael Todd  
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/s/ Timothy L. Binetti